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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/820,981	03/30/2001	Shuichi Tsubura	010402	4172

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EXAMINER

FISHER, MICHAEL J

ART UNIT	PAPER NUMBER
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3629

DATE MAILED: 03/24/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/820,981

Applicant(s)

TSUBURA, SHUICHI

Examiner

Michael J Fisher

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☐ Claim(s) 1-24 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-24 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. ____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|--|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. ____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date <u>3/30/01</u> . | 6) <input type="checkbox"/> Other: ____ |

DETAILED ACTION

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims are rejected under 35 U.S.C. 102(b) as being anticipated by US PAT 5,546,523 to Gatto.

As to claim 1, Gatto discloses a system for automatically collecting charges in accordance with individual consumption (title), comprising, an electronic alternative to currency (ATM and credit cards being used electronically are an electronic alternative to currency, as discussed in claim 5), a source consumption monitor (gas pump, col 8, lines 57-60), the gas pump inherently monitors amount pumped, a charge collecting for collecting charges (col 8, lines 50-60).

As to claim 2, the charge would inherently be in accordance with source consumption (amount of gas pumped) and further, would be collected at any time as required (it would be required after pumping).

As to claims 3 and 4, it would be inherent that if the person didn't pay for the service it would not be provided.

As to claims 5-8, it is inherent that a gas pump charges for amount pumped time the amount per gallon, this would be the amount collected.

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As to claims 9-12, it is inherent that gas prices are set externally from the charge collector as the collector is shown as an attached ATM machine and therefore, not integral with the pump (col 8, lines 50-60).

As to claims 13-16, as gas prices change regularly, it would be inherent that the provider could change them and further, it would be a communication line as pricing information is communicated.

As to claim 17, gas pumps inherently display amount dispensed and further, Gatto discloses balance inquiries (col 6, lines 25-30).

As to claim 18, gas pumps inherently display amount dispensed and further, it would be inherent that the charge collector monitor's the user's balance (to ensure it has a balance to authorize pumping as if there was no money in the account the user could not pay for the gasoline).

As to claim 19, it would be inherent that the charge collector would have a payment medium for storing payments else they could not be collected.

As to claim 20, it would be inherent that the system has a collector's payment unit for receiving electronic money as the transaction is electronic and otherwise, the gasoline provider could not collect the payment.

As to claim 21, as the system is shown to be electronic, there would inherently be a communication line.

As to claim 23, Gatto discloses a terminal for automatically collecting charges in accordance with consumption of a source comprising a terminal (ATM), communicably connected with one or more user's mediums which stores electronic money (ATM card),

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and the terminal is equipped to collect charges in accordance with the user's consumption (pumping gas).

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

Claims 22 and 24 are rejected under 35 U.S.C. 103(a) as being unpatentable over Gatto.

Gatto discloses a system as discussed above.

As to claim 22, Gatto does not teach a mobile terminal. Gatto does disclose the system as being useful for a plurality of electronic transactions such as coupon dispensers or lottery machines (col 8, lines 41-46). Therefore, it would have been obvious to one of ordinary skill in the art to make the terminal mobile so that it could be

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used for machines (such as lottery machines) that might be moved during a reorganization of a supermarket or convenience store.

As to claim 24, gasoline pumps inherently have amount pumped (consumed by user), the charges are in accordance with this consumption (else the user would be charged for gas the user did not pump or the user would not be charged for gas the user did pump). Gatto does not, however, teach having the balance on the medium. It is very well known in the art for balance information to be contained on a magnetic strip card (such as so-called 'pre-paid' calling cards or gift certificates). Therefore, it would have been obvious to one of ordinary skill in the art to modify the system as taught by Gatto by including the balance on the card so as to allow for there to be pre-paid, gift cards.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Michael J Fisher whose telephone number is 703-306-5993. The examiner can normally be reached on Mon.-Fri. 7:30am-5:00pm alt Fri. off.

The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

MF 
3/18/05

Michael J Fisher



Patent Examiner
GAU 3629